

Senate Bill No. 128

CHAPTER 763

An act to amend Section 4420 of the Government Code, relating to state property.

[Approved by Governor September 26, 2000. Filed with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 128, Polanco. State property.

(1) Existing law authorizes the Director of General Services, with the consent of the state agency concerned, to sell, convey, or exchange surplus real property belonging to the state at fair market value under specified circumstances.

This bill would authorize the director, with approval of the Director of the Department of Transportation, to sell, lease, or exchange the real property located at 120 South Spring Street in the City of Los Angeles, including structures thereon totaling approximately 395,000 square feet.

(2) Existing law prohibits a state or local government agency, in connection with competitive bidding for a public building or construction contract, from requiring a bidder to obtain a surety bond or insurance in connection with the project from a particular surety or insurance company, agent, or broker, and authorizes use of owner-controlled or wrap-up insurance on a "construction or renovation project" for which the total cost exceeds \$50,000,000 if the agency meets certain conditions and certifies that it has made certain determinations.

This bill would clarify that law by authorizing owner-controlled or wrap-up insurance for a construction or renovation program, rather than project, for which the costs exceed \$50,000,000.

The people of the State of California do enact as follows:

SECTION 1. The Director of General Services, with approval of the Director of the Department of Transportation, may sell, lease, or exchange the real property located at 120 South Spring Street in the City of Los Angeles, including structures thereon totaling approximately 395,000 square feet, on those terms and conditions and subject to the reservations and exceptions that may be in the best interest of the state.

SEC. 2. Section 4420 of the Government Code is amended to read:

4420. (a) No state or local governmental agency and no person acting on behalf of any state or local governmental agency, except a governmental agency created pursuant to agreement or compact with another state, shall, with respect to any public building or construction contract that is about to be or that has been competitively bid, require the bidder to make application to, furnish financial data to, or obtain or procure any surety bond or contract of insurance specified in connection with the contract or specified by any law, ordinance, or regulation from, a particular surety or insurance company, agent, or broker.

(b) Notwithstanding subdivision (a), a state or local governmental agency may use owner-controlled or wrap-up insurance with regard to a construction or renovation program for which the total cost exceeds fifty million dollars (\$50,000,000) if the agency meets all of the following conditions and certifies that it has made the following determinations:

(1) Prospective bidders, including contractors and subcontractors, meet minimum occupational safety and health qualifications established to bid on the project. The evaluation of prospective bidders shall be based on consideration of the following factors:

(A) Serious and willful violations of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, by a contractor or subcontractor during the past five-year period.

(B) The contractor's or subcontractor's workers' compensation experience modification factor.

(C) A contractor's or subcontractor's injury prevention program instituted pursuant to Section 3201.5 or 6401.7 of the Labor Code.

(2) The use of owner-controlled or wrap-up insurance will minimize the expenditure of public funds on the project in conjunction with the exercise of appropriate risk management.

(3) The program maintains completed operation coverage for a term for which the Insurance Commissioner has determined that coverage is reasonably commercially available, but in no event less than three years.

(4) Bid specifications clearly specify for all bidders the insurance coverage provided under the program and minimum safety requirements that must be met.

(5) The program does not prohibit a contractor or subcontractor from purchasing any additional insurance coverage that a contractor or subcontractor believes is necessary to protect from any liability arising out of the contract.

(6) The program does not include surety insurance.

(c) Safety requirements for a project subject to this section may be developed jointly between the agency and the prime contractor. If the agency requires a safety program different than the prime contractor's usual and customary program, the program shall be

mutually agreed upon, taking into account the prime contractor's experience, expertise, existing labor agreements relating to safety issues, and any unique safety issues relating to the project.

(d) This section shall not affect any provision in a collective bargaining agreement specified in Section 3201.5 of the Labor Code that is submitted by the prime contractor with its construction bid.

(e) The use of owner-controlled or wrap-up insurance under this chapter does not abrogate, limit, or otherwise affect any potential liability that is otherwise available at law.

(f) For purposes of this section, the following terms have the following meanings:

(1) "Owner-controlled or wrap-up insurance" means a series of insurance policies issued to cover all of the contractors and subcontractors on a given project for purposes of general liability and workers' compensation.

(2) "State governmental agency" means any state office, officer, department, division, bureau, board, commission, the University of California, or the California State University.

(3) "Local governmental agency" means any city, county, city and county, special district, authority, or other political subdivision of or within the state.

